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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,180	12/07/2001	Benjamin Wiegand	JBP-571	9457
27777	7590	08/17/2007		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER GEORGE, KONATA M	
			ART UNIT 1616	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/017,180

Applicant(s)

WIEGAND ET AL.

Examiner

Konata M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,10-12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,10,11,12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/2/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1, 10-12, 14 and 15 are pending in this application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on February 2, 2007 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Action Summary

2. The objection to claims 10 and 11 are hereby withdrawn as applicant has amended the claims to correct the objection.
3. The rejection of claim 12 under 35 U.S.C. 102(b) as being anticipated by Mrklas et al. is hereby withdrawn.
4. The rejection of claims 1, 10, 11, 14 and 15 under 35 U.S.C. 102(b) as being anticipated by Mrklas et al. is hereby withdrawn in view of applicant amendment to the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1, 10, 11, 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mrklas et al. (US 5,304,112) in view of McLean (US 5,958,462).

The examiner understands the invention to be a method of reducing the number and severity of acne lesion by administering a sensory regimen, wherein the regimen comprises at least two stimuli selected from the group consisting of auditory stimuli, visual stimuli, tactile stimuli, gustatory stimuli and olfactory stimuli.

Determination of the scope and content of the prior art

(MPEP §2141.01)

Mrklas et al. disclose a system for reducing stress. The system provides relaxing visual, auditory, tactile, environmental and other effects to reduce the stress level in a human (abstract). Column 5, lines 27-35 describes the set-up for the system comprising a chair, laser projection system and speakers. Column 6, line 22 through column 10, line 11 describes in detail the how the system reduces stress i.e. for environmental stimulus the user can control the background lighting, and release

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fragrances into the air. The user can also control a sound effects module to play music through a tape playback system.

Ascertainment of the difference between the prior art and the claims

(MPEP §2141.02)

Mrklas et al. do not teach administering the sensory regimen four times a day as claimed by applicant or the downregulation of the HPA axis of the mammal.

Mrklas et al. do not teach soaking in a bath fragranced with a relaxing fragrance. It is for this that McLean is joined.

McLean discloses a therapeutic bath for relaxation of muscles, elimination or reduction of muscle spasms and for the overall enhancement of a person's mood (abstract). The bath composition comprises magnesium sulfate trihydrate, lithium chloride, copper gluconate and essential oils, wherein the essential oils include rosewood oil, ylang ylang oil, lavender oil and patchouli oil (abstract). Column 5, lines 21-28 teaches that the patient soaks in the water between thirty and ninety minutes or until the water begins to cool; also that the therapy may be repeated on an "as needed" basis as often as required.

Finding of prima facie obviousness

Rational and Motivation (MPEP §2142-2143)

Applicant has amended the claims to recite a regimen comprising a period of time of 10-30 minutes after morning waking, four hours after waking, eight hours after waking and twelve hours waking. The visual stimuli comprise soft lighting and the auditory stimuli comprise music. Mrklas et al. teach a system that allows the user to release a fragrance into the air, control the background lighting and the music. It is the position of the examiner that since the instant invention requires a combination of an olfactory stimuli and an auditory stimuli to reduce the number and severity of acne lesions and the system of Mrklas et al. teach a system that delivers an olfactory stimuli and an auditory stimuli, then the limitation of reducing the number and severity of acne lesions would be met by Mrklas et al. and would have been obvious. With respect to the period of time the sensory regimen is administered, it would have been within the knowledge of one of ordinary skill in the art to determine an appropriate dosage regimen that would reduce the number and severity of acne lesions of the mammal. It is the position of the examiner that since Mrklas et al. teach the claimed invention then the downregulation of the HPA axis will be met.

A correlation between stress and acne is well documented (see disclosed reference). It is also noted that a reduction in stress would cause a reduction in the presence of acne. Aromatherapy baths, such as, those describe in McLean have been widely marketed as a method of relieving stress. It is the position of the examiner that when a patient is soaking in an aromatherapy bath as a method of reducing stress, then

an additional benefit of the bath would be a reduction in number and severity of acne lesions. Therefore, it would have been obvious to one of ordinary skill in the art to use a combination of various known stress reducing methods, such as, the one mentioned in Mrklas et al. in an attempt to reduce the number and severity of acne lesions in a mammal.

Response to Arguments

6. Applicant's arguments filed February 27, 2007 have been fully considered but they are not persuasive.

Applicants argue that Mrklas et al. do not teach using the stress reduction system to reduce the number and severity of acne lesions. The examiner disagrees. It has been well documented in articles that a correlation between stress and adult acne exists (see disclosed reference). Thus, it would have been obvious to one of ordinary skill in the art that a method of reducing stress can also serve as a method of reducing acne caused by stress. Therefore, it is possible that the system of Mrklas et al. can reduce the number and severity of acne lesions and the same time as reducing the stress level of an individual.

Conclusion

7. Claims 1, 10, 11, 12, 14 and 15 are rejected.

Telephone Inquiries


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8:00AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Konata M. George
Patent Examiner
Technology Center 1600


Johann R. Richter
Supervisory Patent Examiner
Technology Center 1600